

Goodman Law Group
A Professional Corporation
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 383-5088

Ross C. Goodman, Esq., Nevada State Bar No. 7722
GOODMAN LAW GROUP
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 383-5088
(702) 385-5088 (Facsimile)

David M. Buckner, Florida State Bar. No. 60550
Brett E. von Borke, Esq., Florida State Bar No. 44802
GROSSMAN ROTH, P.A.
2525 Ponce de Leon, Suite 1150
Miami, Florida 33134
(305) 442-8666
(305) 285-1668 (Facsimile)

Kenneth R. Hartmann Esq., Florida State Bar No. 664286
KOZYAK TROPIN & THROCKMORTON, PA
2525 Ponce de Leon, 9th Floor
Miami, Florida 33134
(305) 372-1800
(305) 372-3508 (Facsimile)

ATTORNEYS FOR PLAINTIFF & THE CLASS

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GERALD HESTER, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

VISION AIRLINES, INC.,

Defendant.

Case No.: 2:09-CV-00117-RLH

**THE CLASS SUPPLEMENT & RESPONSE TO VISION AIRLINE'S SUPPLEMENTAL
RESPONSE TO THE CLASS' THIRD MOTION FOR SANCTIONS**

Vision Airline's, Inc.'s ("Vision") Supplemental Response to the Class' Third Motion for Sanctions ("Supplement") [D.E. 367] is an improper sur-reply and a vain effort to try and forestall sanctions by making additional misrepresentations to the Court, hoping that the Class will not notice or will not respond. While the Class is reluctant to burden the Court with additional pleadings, Vision's misrepresentations are so brazen and so demonstrably false that the Class has no choice but to respond to set the record straight. In its Supplement, Vision states

1 that “Vision never owned any aircraft,” [D.E. 367 at 2], and “Vision did not and does not own
 2 any aircraft. Any claims by the Plaintiff to the contrary are false.” [D.E. 367 at 3]. The
 3 fundamental problem with Vision’s claim is that it is directly contradicted by the testimony of
 4 Mr. Acor, its Chief Executive Officer. Contrary to Vision’s claims, Mr. Acor testified in his
 5 deposition, under oath, that Vision owned at least two Boeing 737s and the Boeing 767s that
 6 operated the Air Bridge Program flights. Specifically, Mr. Acor testified:

8 **Buckner:** The three 737s that Vision operated the Air Bridge with, were those aircraft all
 9 owned by Vision or were any of them leased?

10 **Acor:** They were leased, basically. Then we purchased them.

11 **Buckner:** Okay. Oh, so does Vision own those three aircraft now?

12 **Acor:** We own two of them.

13 **Buckner:** How about the 767s that Vision uses to operate the Air Bridge today? Are
 14 those aircraft leased or owned by Vision?

15 **Acor:** We own them.

16 (Exhibit A at p. 162).
 17

18 This is yet another example of Vision’s continued efforts to misrepresent the record to
 19 this Court and to deprive the Class of the discovery to which it is entitled by this Court’s Order.
 20 Moreover, it puts the lie to Vision’s repeated statements to this Court and the Class that its
 21 production in response to the In Aid of Execution Discovery is complete, because Vision
 22 continues to produce additional responsive documents. Vision’s conduct is sanctionable and its
 23 improper sur-reply is simply more proof of the same. Having made material misrepresentations
 24 to this Court repeatedly, having abused the discovery process, and having twice been sanctioned
 25 for it, Vision appears to have abandoned any effort to be candid with this tribunal. If for no other
 26 reason than for vindicating this Court’s own authority, sanctions are appropriate here.
 27
 28

Goodman Law Group
A Professional Corporation
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 982-5088

Respectfully submitted,

GROSSMAN ROTH, P.A.
2525 Ponce de Leon, Ste. 1150
Coral Gables, Florida 33134
Telephone: (305) 442-8666

By: /s/ David M. Buckner
David M. Buckner
Florida Bar No. 60550
Brett E. von Borke
Florida Bar. No. 0044802

COUNSEL FOR PLAINTIFF AND THE CLASS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served via the Court's CM/ECF system on February 12, 2014.

By: /s/ David M. Buckner
David M. Buckner

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